

INITIATIVE 194

I, Ralph Munro, Secretary of State of the State of Washington and custodian of its seal, hereby certify that, according to the records on file in my office, the attached copy of Initiative Measure No. 194 to the Legislature is a true and correct copy as it was received by this office.

1 AN ACT Relating to crimes against children; amending RCW 9A.44.073,
2 9A.44.083, 9.68A.040, 9.68A.050; reenacting and amending RCW 9.94A.120
3 and 9.94A.320; adding a new section to chapter 9.94A RCW; and
4 prescribing penalties.

5 BE IT ENACTED BY THE PEOPLE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** A new section is added to chapter 9.94A RCW
7 to read as follows:

8 Any person convicted of a crime against a child shall be punished
9 by confinement and fine to be no less than the following:

10 By confinement in a state correctional institution for a term of
11 life imprisonment without the possibility of parole; and by a fine of
12 no less than one hundred thousand dollars.

13 For purposes of this section a "crime against a child" is
14 designated as one of the following:

- 15 (1) Rape of a child in the first degree;
16 (2) Child molestation in the first degree;
17 (3) Sexual exploitation of a minor;
18 (4) Dealing in depictions of minor engaged in sexually explicit
19 conduct.

1 **Sec. 2.** RCW 9A.44.073 and 1988 c 145 s 2 are each amended to read
2 as follows:

3 (1) A person is guilty of rape of a child in the first degree when
4 the person has sexual intercourse with another who is less than twelve
5 years old and not married to the perpetrator and the perpetrator is at
6 least twenty-four months older than the victim.

7 (2) Rape of a child in the first degree is a class A felony and is
8 punishable according to section 1 of this act.

9 **Sec. 3.** RCW 9A.44.083 and 1994 c 271 s 303 are each amended to
10 read as follows:

11 (1) A person is guilty of child molestation in the first degree
12 when the person has, or knowingly causes another person under the age
13 of eighteen to have, sexual contact with another who is less than
14 twelve years old and not married to the perpetrator and the perpetrator
15 is at least thirty-six months older than the victim.

16 (2) Child molestation in the first degree is a class A felony and
17 is punishable according to section 1 of this act.

18 **Sec. 4.** RCW 9.68A.040 and 1989 c 32 s 2 are each amended to read
19 as follows:

20 (1) A person is guilty of sexual exploitation of a minor if the
21 person:

22 (a) Compels a minor by threat or force to engage in sexually
23 explicit conduct, knowing that such conduct will be photographed or
24 part of a live performance;

25 (b) Aids, invites, employs, authorizes, or causes a minor to engage
26 in sexually explicit conduct, knowing that such conduct will be
27 photographed or part of a live performance; or

28 (c) Being a parent, legal guardian, or person having custody or
29 control of a minor, permits the minor to engage in sexually explicit
30 conduct, knowing that the conduct will be photographed or part of a
31 live performance.

32 (2) Sexual exploitation of a minor is a class ((B)) (A) felony and
33 is punishable ((under chapter 9A.20 RCW)) according to section 1 of
34 this act.

35 **Sec. 5.** RCW 9.68A.050 and 1989 c 32 s 3 are each amended to read
36 as follows:

1 A person who:

2 (1) Knowingly develops, duplicates, publishes, prints,
3 disseminates, exchanges, finances, attempts to finance, or sells any
4 visual or printed matter that depicts a minor engaged in an act of
5 sexually explicit conduct; or

6 (2) Possesses with intent to develop, duplicate, publish, print,
7 disseminate, exchange, or sell any visual or printed matter that
8 depicts a minor engaged in an act of sexually explicit conduct
9 is guilty of a class ((C)) A felony and is punishable ((under chapter
10 9A.20-RCW)) according to section 1 of this act.

11 **Sec. 6.** RCW 9.94A.120 and 1996 c 275 s 2, 1996 c 215 s 5, 1996 c
12 199 s 1, and 1996 c 93 s 1 are each reenacted and amended to read as
13 follows:

14 When a person is convicted of a felony, the court shall impose
15 punishment as provided in this section.

16 (1) Except as authorized in subsections (2), (4), (5), (6), and (8)
17 of this section, the court shall impose a sentence within the sentence
18 range for the offense.

19 (2) The court may impose a sentence outside the standard sentence
20 range for that offense if it finds, considering the purpose of this
21 chapter, that there are substantial and compelling reasons justifying
22 an exceptional sentence.

23 (3) Whenever a sentence outside the standard range is imposed, the
24 court shall set forth the reasons for its decision in written findings
25 of fact and conclusions of law. A sentence outside the standard range
26 shall be a determinate sentence.

27 (4) A persistent offender shall be sentenced to a term of total
28 confinement for life without the possibility of parole or, when
29 authorized by RCW 10.95.030 for the crime of aggravated murder in the
30 first degree, sentenced to death, notwithstanding the maximum sentence
31 under any other law. An offender convicted of a crime against a child
32 as defined in section 1 of this act shall be punished as specified in
33 section 1 of this act. An offender convicted of the crime of murder in
34 the first degree shall be sentenced to a term of total confinement not
35 less than twenty years. An offender convicted of the crime of assault
36 in the first degree or assault of a child in the first degree where the
37 offender used force or means likely to result in death or intended to
38 kill the victim shall be sentenced to a term of total confinement not

1 less than five years. An offender convicted of the crime of rape in
2 the first degree shall be sentenced to a term of total confinement not
3 less than five years. The foregoing minimum terms of total confinement
4 are mandatory and shall not be varied or modified as provided in
5 subsection (2) of this section. In addition, all offenders subject to
6 the provisions of this subsection shall not be eligible for community
7 custody, earned early release time, furlough, home detention, partial
8 confinement, work crew, work release, or any other form of early
9 release as defined under RCW 9.94A.150 (1), (2), (3), (5), (7), or (8),
10 or any other form of authorized leave of absence from the correctional
11 facility while not in the direct custody of a corrections officer or
12 officers during such minimum terms of total confinement except in the
13 case of an offender in need of emergency medical treatment or for the
14 purpose of commitment to an inpatient treatment facility in the case of
15 an offender convicted of the crime of rape in the first degree.

16 (5) In sentencing a first-time offender the court may waive the
17 imposition of a sentence within the sentence range and impose a
18 sentence which may include up to ninety days of confinement in a
19 facility operated or utilized under contract by the county and a
20 requirement that the offender refrain from committing new offenses.
21 The sentence may also include up to two years of community supervision,
22 which, in addition to crime-related prohibitions, may include
23 requirements that the offender perform any one or more of the
24 following:

25 (a) Devote time to a specific employment or occupation;

26 (b) Undergo available outpatient treatment for up to two years, or
27 inpatient treatment not to exceed the standard range of confinement for
28 that offense;

29 (c) Pursue a prescribed, secular course of study or vocational
30 training;

31 (d) Remain within prescribed geographical boundaries and notify the
32 court or the community corrections officer prior to any change in the
33 offender's address or employment;

34 (e) Report as directed to the court and a community corrections
35 officer; or

36 (f) Pay all court-ordered legal financial obligations as provided
37 in RCW 9.94A.030 and/or perform community service work.

38 (6)(a) An offender is eligible for the special drug offender
39 sentencing alternative if:

1 (i) The offender is convicted of the manufacture, delivery, or
2 possession with intent to manufacture or deliver a controlled substance
3 classified in Schedule I or II that is a narcotic drug or a felony that
4 is, under chapter 9A.28 RCW or RCW 69.50.407, a criminal attempt,
5 criminal solicitation, or criminal conspiracy to commit such crimes,
6 and the violation does not involve a sentence enhancement under RCW
7 9.94A.310 (3) or (4);

8 (ii) The offender has no prior convictions for a felony in this
9 state, another state, or the United States; and

10 (iii) The offense involved only a small quantity of the particular
11 controlled substance as determined by the judge upon consideration of
12 such factors as the weight, purity, packaging, sale price, and street
13 value of the controlled substance.

14 (b) If the midpoint of the standard range is greater than one year
15 and the sentencing judge determines that the offender is eligible for
16 this option and that the offender and the community will benefit from
17 the use of the special drug offender sentencing alternative, the judge
18 may waive imposition of a sentence within the standard range and impose
19 a sentence that must include a period of total confinement in a state
20 facility for one-half of the midpoint of the standard range. During
21 incarceration in the state facility, offenders sentenced under this
22 subsection shall undergo a comprehensive substance abuse assessment and
23 receive, within available resources, treatment services appropriate for
24 the offender. The treatment services shall be designed by the division
25 of alcohol and substance abuse of the department of social and health
26 services, in cooperation with the department of corrections. If the
27 midpoint of the standard range is twenty-four months or less, no more
28 than three months of the sentence may be served in a work release
29 status. The court shall also impose one year of concurrent community
30 custody and community supervision that must include appropriate
31 outpatient substance abuse treatment, crime-related prohibitions
32 including a condition not to use illegal controlled substances, and a
33 requirement to submit to urinalysis or other testing to monitor that
34 status. The court may require that the monitoring for controlled
35 substances be conducted by the department or by a treatment
36 alternatives to street crime program or a comparable court or agency-
37 referred program. The offender may be required to pay thirty dollars
38 per month while on community custody to offset the cost of monitoring.

1 In addition, the court shall impose three or more of the following
2 conditions:

3 (i) Devote time to a specific employment or training;

4 (ii) Remain within prescribed geographical boundaries and notify
5 the court or the community corrections officer before any change in the
6 offender's address or employment;

7 (iii) Report as directed to a community corrections officer;

8 (iv) Pay all court-ordered legal financial obligations;

9 (v) Perform community service work;

10 (vi) Stay out of areas designated by the sentencing judge.

11 (c) If the offender violates any of the sentence conditions in (b)
12 of this subsection, the department shall impose sanctions
13 administratively, with notice to the prosecuting attorney and the
14 sentencing court. Upon motion of the court or the prosecuting
15 attorney, a violation hearing shall be held by the court. If the court
16 finds that conditions have been willfully violated, the court may
17 impose confinement consisting of up to the remaining one-half of the
18 midpoint of the standard range. All total confinement served during
19 the period of community custody shall be credited to the offender,
20 regardless of whether the total confinement is served as a result of
21 the original sentence, as a result of a sanction imposed by the
22 department, or as a result of a violation found by the court. The term
23 of community supervision shall be tolled by any period of time served
24 in total confinement as a result of a violation found by the court.

25 (d) The department shall determine the rules for calculating the
26 value of a day fine based on the offender's income and reasonable
27 obligations which the offender has for the support of the offender and
28 any dependents. These rules shall be developed in consultation with
29 the administrator for the courts, the office of financial management,
30 and the commission.

31 (7) If a sentence range has not been established for the
32 defendant's crime, the court shall impose a determinate sentence which
33 may include not more than one year of confinement, community service
34 work, a term of community supervision not to exceed one year, and/or
35 other legal financial obligations. The court may impose a sentence
36 which provides more than one year of confinement if the court finds,
37 considering the purpose of this chapter, that there are substantial and
38 compelling reasons justifying an exceptional sentence.

1 (8)(a)(i) When an offender is convicted of a sex offense other than
2 a violation of RCW 9A.44.050 or a sex offense that is also a serious
3 violent offense and has no prior convictions for a sex offense or any
4 other felony sex offenses in this or any other state, the sentencing
5 court, on its own motion or the motion of the state or the defendant,
6 may order an examination to determine whether the defendant is amenable
7 to treatment.

8 The report of the examination shall include at a minimum the
9 following: The defendant's version of the facts and the official
10 version of the facts, the defendant's offense history, an assessment of
11 problems in addition to alleged deviant behaviors, the offender's
12 social and employment situation, and other evaluation measures used.
13 The report shall set forth the sources of the evaluator's information.

14 The examiner shall assess and report regarding the defendant's
15 amenability to treatment and relative risk to the community. A
16 proposed treatment plan shall be provided and shall include, at a
17 minimum:

18 (A) Frequency and type of contact between offender and therapist;

19 (B) Specific issues to be addressed in the treatment and
20 description of planned treatment modalities;

21 (C) Monitoring plans, including any requirements regarding living
22 conditions, lifestyle requirements, and monitoring by family members
23 and others;

24 (D) Anticipated length of treatment; and

25 (E) Recommended crime-related prohibitions.

26 The court on its own motion may order, or on a motion by the state
27 shall order, a second examination regarding the offender's amenability
28 to treatment. The evaluator shall be selected by the party making the
29 motion. The defendant shall pay the cost of any second examination
30 ordered unless the court finds the defendant to be indigent in which
31 case the state shall pay the cost.

32 (ii) After receipt of the reports, the court shall consider whether
33 the offender and the community will benefit from use of this special
34 sexual offender sentencing alternative and consider the victim's
35 opinion whether the offender should receive a treatment disposition
36 under this subsection. If the court determines that this special sex
37 offender sentencing alternative is appropriate, the court shall then
38 impose a sentence within the sentence range. If this sentence is less

1 than eight years of confinement, the court may suspend the execution of
2 the sentence and impose the following conditions of suspension:

3 (A) The court shall place the defendant on community custody for
4 the length of the suspended sentence or three years, whichever is
5 greater, and require the offender to comply with any conditions imposed
6 by the department of corrections under subsection (14) of this section;
7 and

8 (B) The court shall order treatment for any period up to three
9 years in duration. The court in its discretion shall order outpatient
10 sex offender treatment or inpatient sex offender treatment, if
11 available. A community mental health center may not be used for such
12 treatment unless it has an appropriate program designed for sex
13 offender treatment. The offender shall not change sex offender
14 treatment providers or treatment conditions without first notifying the
15 prosecutor, the community corrections officer, and the court, and shall
16 not change providers without court approval after a hearing if the
17 prosecutor or community corrections officer object to the change. In
18 addition, as conditions of the suspended sentence, the court may impose
19 other sentence conditions including up to six months of confinement,
20 not to exceed the sentence range of confinement for that offense,
21 crime-related prohibitions, and requirements that the offender perform
22 any one or more of the following:

23 (I) Devote time to a specific employment or occupation;

24 (II) Remain within prescribed geographical boundaries and notify
25 the court or the community corrections officer prior to any change in
26 the offender's address or employment;

27 (III) Report as directed to the court and a community corrections
28 officer;

29 (IV) Pay all court-ordered legal financial obligations as provided
30 in RCW 9.94A.030, perform community service work, or any combination
31 thereof; or

32 (V) Make recoupment to the victim for the cost of any counseling
33 required as a result of the offender's crime.

34 (iii) The sex offender therapist shall submit quarterly reports on
35 the defendant's progress in treatment to the court and the parties.
36 The report shall reference the treatment plan and include at a minimum
37 the following: Dates of attendance, defendant's compliance with
38 requirements, treatment activities, the defendant's relative progress

1 in treatment, and any other material as specified by the court at
2 sentencing.

3 (iv) At the time of sentencing, the court shall set a treatment
4 termination hearing for three months prior to the anticipated date for
5 completion of treatment. Prior to the treatment termination hearing,
6 the treatment professional and community corrections officer shall
7 submit written reports to the court and parties regarding the
8 defendant's compliance with treatment and monitoring requirements, and
9 recommendations regarding termination from treatment, including
10 proposed community supervision conditions. Either party may request
11 and the court may order another evaluation regarding the advisability
12 of termination from treatment. The defendant shall pay the cost of any
13 additional evaluation ordered unless the court finds the defendant to
14 be indigent in which case the state shall pay the cost. At the
15 treatment termination hearing the court may: (A) Modify conditions of
16 community custody, and either (B) terminate treatment, or (C) extend
17 treatment for up to the remaining period of community custody.

18 (v) If a violation of conditions occurs during community custody,
19 the department shall either impose sanctions as provided for in RCW
20 9.94A.205(2)(a) or refer the violation to the court and recommend
21 revocation of the suspended sentence as provided for in (a)(vi) of this
22 subsection.

23 (vi) The court may revoke the suspended sentence at any time during
24 the period of community custody and order execution of the sentence if:
25 (A) The defendant violates the conditions of the suspended sentence, or
26 (B) the court finds that the defendant is failing to make satisfactory
27 progress in treatment. All confinement time served during the period
28 of community custody shall be credited to the offender if the suspended
29 sentence is revoked.

30 (vii) Except as provided in (a)(viii) of this subsection, after
31 July 1, 1991, examinations and treatment ordered pursuant to this
32 subsection shall only be conducted by sex offender treatment providers
33 certified by the department of health pursuant to chapter 18.155 RCW.

34 (viii) A sex offender therapist who examines or treats a sex
35 offender pursuant to this subsection (8) does not have to be certified
36 by the department of health pursuant to chapter 18.155 RCW if the court
37 finds that: (A) The offender has already moved to another state or
38 plans to move to another state for reasons other than circumventing the
39 certification requirements; (B) no certified providers are available

1 for treatment within a reasonable geographical distance of the
2 offender's home; and (C) the evaluation and treatment plan comply with
3 this subsection (8) and the rules adopted by the department of health.

4 For purposes of this subsection, "victim" means any person who has
5 sustained emotional, psychological, physical, or financial injury to
6 person or property as a result of the crime charged. "Victim" also
7 means a parent or guardian of a victim who is a minor child unless the
8 parent or guardian is the perpetrator of the offense.

9 (b) When an offender commits any felony sex offense on or after
10 July 1, 1987, and is sentenced to a term of confinement of more than
11 one year but less than six years, the sentencing court may, on its own
12 motion or on the motion of the offender or the state, request the
13 department of corrections to evaluate whether the offender is amenable
14 to treatment and the department may place the offender in a treatment
15 program within a correctional facility operated by the department.

16 Except for an offender who has been convicted of a violation of RCW
17 9A.44.040 or 9A.44.050, if the offender completes the treatment program
18 before the expiration of his or her term of confinement, the department
19 of corrections may request the court to convert the balance of
20 confinement to community supervision and to place conditions on the
21 offender including crime-related prohibitions and requirements that the
22 offender perform any one or more of the following:

23 (i) Devote time to a specific employment or occupation;

24 (ii) Remain within prescribed geographical boundaries and notify
25 the court or the community corrections officer prior to any change in
26 the offender's address or employment;

27 (iii) Report as directed to the court and a community corrections
28 officer;

29 (iv) Undergo available outpatient treatment.

30 If the offender violates any of the terms of his or her community
31 supervision, the court may order the offender to serve out the balance
32 of his or her community supervision term in confinement in the custody
33 of the department of corrections.

34 Nothing in this subsection (8)(b) shall confer eligibility for such
35 programs for offenders convicted and sentenced for a sex offense
36 committed prior to July 1, 1987. This subsection (8)(b) does not apply
37 to any crime committed after July 1, 1990.

38 (c) Offenders convicted and sentenced for a sex offense committed
39 prior to July 1, 1987, may, subject to available funds, request an

1 evaluation by the department of corrections to determine whether they
2 are amenable to treatment. If the offender is determined to be
3 amenable to treatment, the offender may request placement in a
4 treatment program within a correctional facility operated by the
5 department. Placement in such treatment program is subject to
6 available funds.

7 (9)(a) When a court sentences a person to a term of total
8 confinement to the custody of the department of corrections for an
9 offense categorized as a sex offense or a serious violent offense
10 committed after July 1, 1988, but before July 1, 1990, assault in the
11 second degree, assault of a child in the second degree, any crime
12 against a person where it is determined in accordance with RCW
13 9.94A.125 that the defendant or an accomplice was armed with a deadly
14 weapon at the time of commission, or any felony offense under chapter
15 69.50 or 69.52 RCW not sentenced under subsection (6) of this section,
16 committed on or after July 1, 1988, the court shall in addition to the
17 other terms of the sentence, sentence the offender to a one-year term
18 of community placement beginning either upon completion of the term of
19 confinement or at such time as the offender is transferred to community
20 custody in lieu of earned early release in accordance with RCW
21 9.94A.150 (1) and (2). When the court sentences an offender under this
22 subsection to the statutory maximum period of confinement then the
23 community placement portion of the sentence shall consist entirely of
24 such community custody to which the offender may become eligible, in
25 accordance with RCW 9.94A.150 (1) and (2). Any period of community
26 custody actually served shall be credited against the community
27 placement portion of the sentence.

28 (b) When a court sentences a person to a term of total confinement
29 to the custody of the department of corrections for an offense
30 categorized as a sex offense committed on or after July 1, 1990, but
31 before June 6, 1996, a serious violent offense, vehicular homicide, or
32 vehicular assault, committed on or after July 1, 1990, the court shall
33 in addition to other terms of the sentence, sentence the offender to
34 community placement for two years or up to the period of earned early
35 release awarded pursuant to RCW 9.94A.150 (1) and (2), whichever is
36 longer. The community placement shall begin either upon completion of
37 the term of confinement or at such time as the offender is transferred
38 to community custody in lieu of earned early release in accordance with
39 RCW 9.94A.150 (1) and (2). When the court sentences an offender under

1 this subsection to the statutory maximum period of confinement then the
2 community placement portion of the sentence shall consist entirely of
3 the community custody to which the offender may become eligible, in
4 accordance with RCW 9.94A.150 (1) and (2). Any period of community
5 custody actually served shall be credited against the community
6 placement portion of the sentence. Unless a condition is waived by the
7 court, the terms of community placement for offenders sentenced
8 pursuant to this section shall include the following conditions:

9 (i) The offender shall report to and be available for contact with
10 the assigned community corrections officer as directed;

11 (ii) The offender shall work at department of corrections-approved
12 education, employment, and/or community service;

13 (iii) The offender shall not consume controlled substances except
14 pursuant to lawfully issued prescriptions;

15 (iv) An offender in community custody shall not unlawfully possess
16 controlled substances;

17 (v) The offender shall pay supervision fees as determined by the
18 department of corrections; and

19 (vi) The residence location and living arrangements are subject to
20 the prior approval of the department of corrections during the period
21 of community placement.

22 (c) As a part of any sentence imposed under (a) or (b) of this
23 subsection, the court may also order any of the following special
24 conditions:

25 (i) The offender shall remain within, or outside of, a specified
26 geographical boundary;

27 (ii) The offender shall not have direct or indirect contact with
28 the victim of the crime or a specified class of individuals;

29 (iii) The offender shall participate in crime-related treatment or
30 counseling services;

31 (iv) The offender shall not consume alcohol;

32 (v) The offender shall comply with any crime-related prohibitions;
33 or

34 (vi) For an offender convicted of a felony sex offense against a
35 minor victim after June 6, 1996, the offender shall comply with any
36 terms and conditions of community placement imposed by the department
37 of corrections relating to contact between the sex offender and a minor
38 victim or a child of similar age or circumstance as a previous victim.

1 (d) Prior to transfer to, or during, community placement, any
2 conditions of community placement may be removed or modified so as not
3 to be more restrictive by the sentencing court, upon recommendation of
4 the department of corrections.

5 (10)(a) When a court sentences a person to the custody of the
6 department of corrections for an offense categorized as a sex offense
7 committed on or after June 6, 1996, the court shall, in addition to
8 other terms of the sentence, sentence the offender to community custody
9 for three years or up to the period of earned early release awarded
10 pursuant to RCW 9.94A.150 (1) and (2), whichever is longer. The
11 community custody shall begin either upon completion of the term of
12 confinement or at such time as the offender is transferred to community
13 custody in lieu of earned early release in accordance with RCW
14 9.94A.150 (1) and (2).

15 (b) Unless a condition is waived by the court, the terms of
16 community custody shall be the same as those provided for in subsection
17 (9)(b) of this section and may include those provided for in subsection
18 (9)(c) of this section. As part of any sentence that includes a term
19 of community custody imposed under this subsection, the court shall
20 also require the offender to comply with any conditions imposed by the
21 department of corrections under subsection (14) of this section.

22 (c) At any time prior to the completion of a sex offender's term of
23 community custody, if the court finds that public safety would be
24 enhanced, the court may impose and enforce an order extending any or
25 all of the conditions imposed pursuant to this section for a period up
26 to the maximum allowable sentence for the crime as it is classified in
27 chapter 9A.20 RCW, regardless of the expiration of the offender's term
28 of community custody. If a violation of a condition extended under
29 this subsection occurs after the expiration of the offender's term of
30 community custody, it shall be deemed a violation of the sentence for
31 the purposes of RCW 9.94A.195 and may be punishable as contempt of
32 court as provided for in RCW 7.21.040.

33 (11) If the court imposes a sentence requiring confinement of
34 thirty days or less, the court may, in its discretion, specify that the
35 sentence be served on consecutive or intermittent days. A sentence
36 requiring more than thirty days of confinement shall be served on
37 consecutive days. Local jail administrators may schedule court-ordered
38 intermittent sentences as space permits.

1 (12) If a sentence imposed includes payment of a legal financial
2 obligation, the sentence shall specify the total amount of the legal
3 financial obligation owed, and shall require the offender to pay a
4 specified monthly sum toward that legal financial obligation.
5 Restitution to victims shall be paid prior to any other payments of
6 monetary obligations. Any legal financial obligation that is imposed
7 by the court may be collected by the department, which shall deliver
8 the amount paid to the county clerk for credit. The offender's
9 compliance with payment of legal financial obligations shall be
10 supervised by the department. All monetary payments ordered shall be
11 paid no later than ten years after the last date of release from
12 confinement pursuant to a felony conviction or the date the sentence
13 was entered. Independent of the department, the party or entity to
14 whom the legal financial obligation is owed shall have the authority to
15 utilize any other remedies available to the party or entity to collect
16 the legal financial obligation. Nothing in this section makes the
17 department, the state, or any of its employees, agents, or other
18 persons acting on their behalf liable under any circumstances for the
19 payment of these legal financial obligations. If an order includes
20 restitution as one of the monetary assessments, the county clerk shall
21 make disbursements to victims named in the order.

22 (13) Except as provided under RCW 9.94A.140(1) and 9.94A.142(1), a
23 court may not impose a sentence providing for a term of confinement or
24 community supervision or community placement which exceeds the
25 statutory maximum for the crime as provided in chapter 9A.20 RCW.

26 (14) All offenders sentenced to terms involving community
27 supervision, community service, community placement, or legal financial
28 obligation shall be under the supervision of the department of
29 corrections and shall follow explicitly the instructions and conditions
30 of the department of corrections.

31 (a) The instructions shall include, at a minimum, reporting as
32 directed to a community corrections officer, remaining within
33 prescribed geographical boundaries, notifying the community corrections
34 officer of any change in the offender's address or employment, and
35 paying the supervision fee assessment.

36 (b) For sex offenders sentenced to terms involving community
37 custody for crimes committed on or after June 6, 1996, the department
38 may include, in addition to the instructions in (a) of this subsection,
39 any appropriate conditions of supervision, including but not limited

1 to, prohibiting the offender from having contact with any other
2 specified individuals or specific class of individuals. The conditions
3 authorized under this subsection (14)(b) may be imposed by the
4 department prior to or during a sex offender's community custody term.
5 If a violation of conditions imposed by the court or the department
6 pursuant to subsection (10) of this section occurs during community
7 custody, it shall be deemed a violation of community placement for the
8 purposes of RCW 9.94A.207 and shall authorize the department to
9 transfer an offender to a more restrictive confinement status as
10 provided in RCW 9.94A.205. At any time prior to the completion of a
11 sex offender's term of community custody, the department may recommend
12 to the court that any or all of the conditions imposed by the court or
13 the department pursuant to subsection (10) of this section be continued
14 beyond the expiration of the offender's term of community custody as
15 authorized in subsection (10)(c) of this section.

16 The department may require offenders to pay for special services
17 rendered on or after July 25, 1993, including electronic monitoring,
18 day reporting, and telephone reporting, dependent upon the offender's
19 ability to pay. The department may pay for these services for
20 offenders who are not able to pay.

21 (15) All offenders sentenced to terms involving community
22 supervision, community service, or community placement under the
23 supervision of the department of corrections shall not own, use, or
24 possess firearms or ammunition. Offenders who own, use, or are found
25 to be in actual or constructive possession of firearms or ammunition
26 shall be subject to the appropriate violation process and sanctions.
27 "Constructive possession" as used in this subsection means the power
28 and intent to control the firearm or ammunition. "Firearm" as used in
29 this subsection means a weapon or device from which a projectile may be
30 fired by an explosive such as gunpowder.

31 (16) The sentencing court shall give the offender credit for all
32 confinement time served before the sentencing if that confinement was
33 solely in regard to the offense for which the offender is being
34 sentenced.

35 (17) A departure from the standards in RCW 9.94A.400 (1) and (2)
36 governing whether sentences are to be served consecutively or
37 concurrently is an exceptional sentence subject to the limitations in
38 subsections (2) and (3) of this section, and may be appealed by the
39 defendant or the state as set forth in RCW 9.94A.210 (2) through (6).

(18) The court shall order restitution whenever the offender is convicted of a felony that results in injury to any person or damage to or loss of property, whether the offender is sentenced to confinement or placed under community supervision, unless extraordinary circumstances exist that make restitution inappropriate in the court's judgment. The court shall set forth the extraordinary circumstances in the record if it does not order restitution.

(19) As a part of any sentence, the court may impose and enforce an order that relates directly to the circumstances of the crime for which the offender has been convicted, prohibiting the offender from having any contact with other specified individuals or a specific class of individuals for a period not to exceed the maximum allowable sentence for the crime, regardless of the expiration of the offender's term of community supervision or community placement.

(20) In any sentence of partial confinement, the court may require the defendant to serve the partial confinement in work release, in a program of home detention, on work crew, or in a combined program of work crew and home detention.

(21) All court-ordered legal financial obligations collected by the department and remitted to the county clerk shall be credited and paid where restitution is ordered. Restitution shall be paid prior to any other payments of monetary obligations.

Sec. 7. RCW 9.94A.320 and 1996 c 302 s 6, 1996 c 205 s 3, and 1996 c 36 s 2 are each reenacted and amended to read as follows:

TABLE 2

CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL

XV	Aggravated Murder 1 (RCW 10.95.020)
	<u>Rape of a Child 1 (RCW 9A.44.073)</u>
	<u>Child Molestation 1 (RCW 9A.44.083)</u>
	<u>Sexual Exploitation of a Minor (RCW</u>
	<u>9.68A.040)</u>
	<u>Dealing in Depictions of Minor Engaged in</u>
	<u>Sexually Explicit Conduct (RCW</u>
	<u>9.68A.050)</u>
XIV	Murder 1 (RCW 9A.32.030)
	Homicide by abuse (RCW 9A.32.055)

1 XIII Murder 2 (RCW 9A.32.050)
 2 XII Assault 1 (RCW 9A.36.011)
 3 Assault of a Child 1 (RCW 9A.36.120)
 4 XI Rape 1 (RCW 9A.44.040)
 5 ((~~Rape of a Child 1 (RCW 9A.44.073)~~))
 6 X Kidnapping 1 (RCW 9A.40.020)
 7 Rape 2 (RCW 9A.44.050)
 8 Rape of a Child 2 (RCW 9A.44.076)
 9 ((~~Child Molestation 1 (RCW 9A.44.083)~~))
 10 Damaging building, etc., by explosion with
 11 threat to human being (RCW
 12 70.74.280(1))
 13 Over 18 and deliver heroin or narcotic from
 14 Schedule I or II to someone under 18
 15 (RCW 69.50.406)
 16 Leading Organized Crime (RCW
 17 9A.82.060(1)(a))
 18 IX Assault of a Child 2 (RCW 9A.36.130)
 19 Robbery 1 (RCW 9A.56.200)
 20 Manslaughter 1 (RCW 9A.32.060)
 21 Explosive devices prohibited (RCW
 22 70.74.180)
 23 Indecent Liberties (with forcible
 24 compulsion) (RCW 9A.44.100(1)(a))
 25 Endangering life and property by explosives
 26 with threat to human being (RCW
 27 70.74.270)
 28 Over 18 and deliver narcotic from Schedule
 29 III, IV, or V or a nonnarcotic from
 30 Schedule I-V to someone under 18 and 3
 31 years junior (RCW 69.50.406)
 32 Controlled Substance Homicide (RCW
 33 69.50.415)
 34 ((~~Sexual Exploitation (RCW 9.68A.040)~~))
 35 Inciting Criminal Profiteering (RCW
 36 9A.82.060(1)(b))

1 Vehicular Homicide, by being under the
2 influence of intoxicating liquor or
3 any drug (RCW 46.61.520)

4 VIII Arson 1 (RCW 9A.48.020)
5 Promoting Prostitution 1 (RCW 9A.88.070)
6 Selling for profit (controlled or
7 counterfeit) any controlled substance
8 (RCW 69.50.410)
9 Manufacture, deliver, or possess with
10 intent to deliver heroin or cocaine
11 (RCW 69.50.401(a)(1)(i))
12 Manufacture, deliver, or possess with
13 intent to deliver methamphetamine (RCW
14 69.50.401(a)(1)((~~ii~~)) (iii))
15 Possession of ephedrine or pseudoephedrine
16 with intent to manufacture
17 methamphetamine (RCW 69.50.440)
18 Vehicular Homicide, by the operation of any
19 vehicle in a reckless manner (RCW
20 46.61.520)

21 VII Burglary 1 (RCW 9A.52.020)
22 Vehicular Homicide, by disregard for the
23 safety of others (RCW 46.61.520)
24 Introducing Contraband 1 (RCW 9A.76.140)
25 Indecent Liberties (without forcible
26 compulsion) (RCW 9A.44.100(1) (b) and
27 (c))
28 Child Molestation 2 (RCW 9A.44.086)
29 (~~((Dealing in depictions of minor engaged in~~
30 ~~sexually explicit conduct~~ (RCW
31 ~~9.68A.050))~~)
32 Sending, bringing into state depictions of
33 minor engaged in sexually explicit
34 conduct (RCW 9.68A.060)
35 Involving a minor in drug dealing (RCW
36 69.50.401(f))
37 Reckless Endangerment 1 (RCW 9A.36.045)

1 Unlawful Possession of a Firearm in the
 2 first degree (RCW 9.41.040(1)(a))
 3 VI Bribery (RCW 9A.68.010)
 4 Manslaughter 2 (RCW 9A.32.070)
 5 Rape of a Child 3 (RCW 9A.44.079)
 6 Intimidating a Juror/Witness (RCW
 7 9A.72.110, 9A.72.130)
 8 Damaging building, etc., by explosion with
 9 no threat to human being (RCW
 10 70.74.280(2))
 11 Endangering life and property by explosives
 12 with no threat to human being (RCW
 13 70.74.270)
 14 Incest 1 (RCW 9A.64.020(1))
 15 Manufacture, deliver, or possess with
 16 intent to deliver narcotics from
 17 Schedule I or II (except heroin or
 18 cocaine) (RCW 69.50.401(a)(1)(i))
 19 Intimidating a Judge (RCW 9A.72.160)
 20 Bail Jumping with Murder 1 (RCW
 21 9A.76.170(2)(a))
 22 Theft of a Firearm (RCW 9A.56.300)
 23 V Persistent prison misbehavior (RCW
 24 9.94.070)
 25 Criminal Mistreatment 1 (RCW 9A.42.020)
 26 Abandonment of dependent person 1 (RCW
 27 9A.42.060)
 28 Rape 3 (RCW 9A.44.060)
 29 Sexual Misconduct with a Minor 1 (RCW
 30 9A.44.093)
 31 Child Molestation 3 (RCW 9A.44.089)
 32 Kidnapping 2 (RCW 9A.40.030)
 33 Extortion 1 (RCW 9A.56.120)
 34 Incest 2 (RCW 9A.64.020(2))
 35 Perjury 1 (RCW 9A.72.020)
 36 Extortionate Extension of Credit (RCW
 37 9A.82.020)

1 Advancing money or property for
2 extortionate extension of credit (RCW
3 9A.82.030)
4 Extortionate Means to Collect Extensions of
5 Credit (RCW 9A.82.040)
6 Rendering Criminal Assistance 1 (RCW
7 9A.76.070)
8 Bail Jumping with class A Felony (RCW
9 9A.76.170(2)(b))
10 Sexually Violating Human Remains (RCW
11 9A.44.105)
12 Delivery of imitation controlled substance
13 by person eighteen or over to person
14 under eighteen (RCW 69.52.030(2))
15 Possession of a Stolen Firearm (RCW
16 9A.56.310)

17 IV Residential Burglary (RCW 9A.52.025)
18 Theft of Livestock 1 (RCW 9A.56.080)
19 Robbery 2 (RCW 9A.56.210)
20 Assault 2 (RCW 9A.36.021)
21 Escape 1 (RCW 9A.76.110)
22 Arson 2 (RCW 9A.48.030)
23 Commercial Bribery (RCW 9A.68.060)
24 Bribing a Witness/Bribe Received by Witness
25 (RCW 9A.72.090, 9A.72.100)
26 Malicious Harassment (RCW 9A.36.080)
27 Threats to Bomb (RCW 9.61.160)
28 Willful Failure to Return from Furlough
29 (RCW 72.66.060)
30 Hit and Run « Injury Accident (RCW
31 46.52.020(4))
32 Hit and Run with Vessel « Injury Accident
33 (RCW 88.12.155(3))
34 Vehicular Assault (RCW 46.61.522)

1 Manufacture, deliver, or possess with
 2 intent to deliver narcotics from
 3 Schedule III, IV, or V or nonnarcotics
 4 from Schedule I-V (except marijuana or
 5 meth amphet amines) (R C W
 6 69.50.401(a)(1)(iii) through (v))
 7 Influencing Outcome of Sporting Event (RCW
 8 9A.82.070)
 9 Use of Proceeds of Criminal Profiteering
 10 (RCW 9A.82.080 (1) and (2))
 11 Knowingly Trafficking in Stolen Property
 12 (RCW 9A.82.050(2))
 13 III Criminal Mistreatment 2 (RCW 9A.42.030)
 14 Abandonment of dependent person 2 (RCW
 15 9A.42.070)
 16 Extortion 2 (RCW 9A.56.130)
 17 Unlawful Imprisonment (RCW 9A.40.040)
 18 Assault 3 (RCW 9A.36.031)
 19 Assault of a Child 3 (RCW 9A.36.140)
 20 Custodial Assault (RCW 9A.36.100)
 21 Unlawful possession of firearm in the
 22 second degree (RCW 9.41.040(1)(b))
 23 Harassment (RCW 9A.46.020)
 24 Promoting Prostitution 2 (RCW 9A.88.080)
 25 Willful Failure to Return from Work Release
 26 (RCW 72.65.070)
 27 Burglary 2 (RCW 9A.52.030)
 28 Introducing Contraband 2 (RCW 9A.76.150)
 29 Communication with a Minor for Immoral
 30 Purposes (RCW 9.68A.090)
 31 Patronizing a Juvenile Prostitute (RCW
 32 9.68A.100)
 33 Escape 2 (RCW 9A.76.120)
 34 Perjury 2 (RCW 9A.72.030)
 35 Bail Jumping with class B or C Felony (RCW
 36 9A.76.170(2)(c))
 37 Intimidating a Public Servant (RCW
 38 9A.76.180)
 39 Tampering with a Witness (RCW 9A.72.120)

1 Manufacture, deliver, or possess with
2 intent to deliver marijuana (RCW
3 69.50.401(a)(1)(iii))
4 Delivery of a material in lieu of a
5 controlled substance (RCW
6 69.50.401(c))
7 Manufacture, distribute, or possess with
8 intent to distribute an imitation
9 controlled substance (RCW
10 69.52.030(1))
11 Recklessly Trafficking in Stolen Property
12 (RCW 9A.82.050(1))
13 Theft of livestock 2 (RCW 9A.56.080)
14 Securities Act violation (RCW 21.20.400)

15 II Unlawful Practice of Law (RCW 2.48.180)
16 Malicious Mischief 1 (RCW 9A.48.070)
17 Possession of Stolen Property 1 (RCW
18 9A.56.150)
19 Theft 1 (RCW 9A.56.030)
20 Trafficking in Insurance Claims (RCW
21 48.30A.015)
22 Unlicensed Practice of a Profession or
23 Business (RCW 18.130.190(7))
24 Health Care False Claims (RCW 48.80.030)
25 Possession of controlled substance that is
26 either heroin or narcotics from
27 Schedule I or II (RCW 69.50.401(d))
28 Possession of phencyclidine (PCP) (RCW
29 69.50.401(d))
30 Create, deliver, or possess a counterfeit
31 controlled substance (RCW
32 69.50.401(b))
33 Computer Trespass 1 (RCW 9A.52.110)
34 Escape from Community Custody (RCW
35 72.09.310)

1 I Theft 2 (RCW 9A.56.040)
2 Possession of Stolen Property 2 (RCW
3 9A.56.160)
4 Forgery (RCW 9A.60.020)
5 Taking Motor Vehicle Without Permission
6 (RCW 9A.56.070)
7 Vehicle Prowl 1 (RCW 9A.52.095)
8 Attempting to Elude a Pursuing Police
9 Vehicle (RCW 46.61.024)
10 Malicious Mischief 2 (RCW 9A.48.080)
11 Reckless Burning 1 (RCW 9A.48.040)
12 Unlawful Issuance of Checks or Drafts (RCW
13 9A.56.060)
14 Unlawful Use of Food Stamps (RCW 9.91.140
15 (2) and (3))
16 False Verification for Welfare (RCW
17 74.08.055)
18 Forged Prescription (RCW 69.41.020)
19 Forged Prescription for a Controlled
20 Substance (RCW 69.50.403)
21 Possess Controlled Substance that is a
22 Narcotic from Schedule III, IV, or V
23 or Non-narcotic from Schedule I-V
24 (except phencyclidine) (RCW
25 69.50.401(d))

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